

AMENDED IN SENATE JUNE 3, 2009

AMENDED IN ASSEMBLY APRIL 20, 2009

AMENDED IN ASSEMBLY APRIL 15, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

Assembly Joint Resolution

No. 8

Introduced by Assembly Member Monning

(Coauthors: Assembly Members Bill Berryhill, Blumenfield, Lieu, Nava, John A. Perez, Ammiano, Arambula, Bass, Beall, Blakeslee, Block, Brownley, Caballero, Coto, Davis, De La Torre, De Leon, Emmerson, Eng, Evans, Feuer, Fletcher, Fong, Fuentes, Hayashi, Hill, Huffman, Jones, Krekorian, Bonnie Lowenthal, Ma, Mendoza, Nestande, V. Manuel Perez, Portantino, Price, Ruskin, Salas, Saldana, Skinner, Audra Strickland, Swanson, Torlakson, Torrico, and Yamada)

(~~Coauthor: Senator DeSaulnier~~ Coauthors: Senators DeSaulnier and Maldonado)

February 25, 2009

Assembly Joint Resolution No. 8—Relative to marine mammal protection.

LEGISLATIVE COUNSEL'S DIGEST

AJR 8, as amended, Monning. Marine mammal protection: swordfish importation.

This measure requests the United States government to restrict swordfish imports unless and until there is a process by which a nation seeking to export swordfish or swordfish products to the United States provides reasonable proof of the effects on marine mammals of the commercial fishing technology used to obtain the swordfish or swordfish

products, and the National Marine Fisheries Service receives that proof and determines that the proof demonstrates that the swordfish or swordfish products to be imported were not caught with commercial fishing technology that results in the incidental kill or incidental serious injury of marine mammals in excess of United States standards.

Fiscal committee: no.

1 WHEREAS, California is a coastal state that is dedicated to the
2 protection of our marine mammal populations, fisheries, and ocean
3 resources; and

4 WHEREAS, California and the United States public have a
5 strong interest in healthy global marine mammal populations; and

6 WHEREAS, Bycatch in some fisheries poses a significant threat
7 to many populations of marine mammals around the world and
8 scientists estimate that the global bycatch of marine mammals is
9 likely to number in the hundreds of thousands each year; and

10 WHEREAS, Scientific experts from Duke University and the
11 University of New Hampshire concluded in 2002 that, “incidental
12 capture in fishing operations is the major threat to whales, dolphins,
13 and porpoises worldwide. Several species and many populations
14 will be lost in the next few decades if nothing is done”; and

15 WHEREAS, Congress recognized that some types of fishing
16 pose a grave threat to marine mammal species when it passed the
17 Marine Mammal Protection Act (16 U.S.C. ~~Sees.~~ *Sec.* 1361 et seq.)
18 (MMPA), a law that imposes restrictions on fishery-related
19 mortalities and injuries of marine mammals and has led to the
20 establishment of significant regulatory protections designed to
21 reduce ~~their~~ *marine mammal* bycatch in United States domestic
22 fisheries; and

23 WHEREAS, Conservation measures have been effective in
24 reducing marine mammal bycatch in United States fisheries,
25 resulting in a 40 percent decrease between 1990 and 1999; and

26 WHEREAS, Despite recognition of the importance of reducing
27 bycatch of marine mammals in fisheries, our knowledge of the
28 global extent, nature, and impacts of direct interactions between
29 marine mammals and foreign fisheries is limited; and

30 WHEREAS, Congress also realized that marine mammal
31 conservation could not be accomplished through regulation of
32 United States fishermen alone, thereby mandating in Section
33 101(a)(2) of the MMPA that United States economic power be

1 utilized to achieve conservation of marine mammals outside United
2 States waters; and

3 WHEREAS, Section 101(a)(2) of the MMPA states that the
4 United States government, “shall ban the importation of
5 commercial fish or fish products that have been caught with
6 commercial fishing technology that results in the incidental kill or
7 incidental serious injury of marine mammals in excess of United
8 States standards”; and

9 WHEREAS, The MMPA directs that the Secretary of Commerce
10 “shall insist on reasonable proof from the government of any nation
11 from which fish or fish products will be exported to the United
12 States of the effects on ocean mammals of the commercial fishing
13 technology in use for such fish or fish products exported from such
14 nation to the United States”; and

15 WHEREAS, The United States imports over 10,000 metric tons
16 of swordfish and swordfish products each year, making it one of
17 the top swordfish consumers in the world; and

18 WHEREAS, The United States received swordfish imports from
19 approximately 43 countries between 2005 and 2007, inclusive, yet
20 the United States government reports that it has no information
21 from any of these countries regarding their fishing practices, take
22 of marine mammals, or any other information to satisfy the
23 requirements of Section 101 of the MMPA as of December 2007;
24 and

25 WHEREAS, The responsible United States agencies cannot
26 confirm whether countries importing swordfish into the United
27 States operate under a regulatory scheme that is comparable to
28 United States standards without demanding, receiving, and
29 assessing the proof required under Section 101(a)(2) of the MMPA;
30 and

31 WHEREAS, It therefore seems that the United States has
32 imported swordfish without obtaining the MMPA-mandated proof
33 that the swordfish was caught in compliance with United States
34 standards for the last 35 years; and

35 WHEREAS, Available information indicates that many of the
36 countries exporting swordfish to the United States fail to regulate
37 their fisheries in a manner that protects marine mammals, transship
38 fish from other poorly regulated and destructive fisheries, or may
39 not track bycatch data at all; and

1 WHEREAS, Collection and reporting of marine mammal
2 bycatch in foreign fisheries under Section 101(a)(2) of the MMPA
3 could help assist management organizations, such as regional
4 fisheries organizations, in assessing fishery interaction mitigation
5 strategies and directing conservation efforts; and

6 WHEREAS, United States swordfish fishermen compete with
7 swordfish imports from many poorly regulated foreign fishermen
8 operating without comparable and appropriate restraints on marine
9 mammal bycatch; and

10 WHEREAS, Enforcement of Section 101 of the MMPA would
11 provide an incentive for foreign fishing fleets to implement similar
12 protective measures and gear requirements as United States
13 fisheries, reducing foreign fleets' competitive advantage over
14 United States fishermen; now, therefore, be it

15 *Resolved by the Assembly and the Senate of the State of*
16 *California, jointly*, That the Legislature of the State of California
17 requests the National Marine Fisheries Service and Department
18 of the Treasury, as appropriate, to carry out the nondiscretionary
19 duties imposed by Section 101(a)(2) of the Marine Mammal
20 Protection Act and immediately ban the importation of swordfish
21 or swordfish products from any and all countries that have not
22 satisfied the MMPA Section 101(a)(2) requirement; and be it
23 further

24 *Resolved*, That the Legislature of the State of California requests
25 the National Marine Fisheries Service to require nations wishing
26 to export swordfish or swordfish products to the United States to
27 provide information on the fishing methods used to catch the
28 swordfish or swordfish products, programs in place to protect
29 marine mammals from incidental harm by the fishery, and
30 effectiveness of fishery monitoring and enforcement activities,
31 and consider that information in making determinations under
32 Section 101(a)(2) of the MMPA; and be it further

33 *Resolved*, That the Legislature of the State of California requests
34 the United States government to restrict swordfish imports unless
35 and until there is a process by which any nation seeking to export
36 swordfish or swordfish products to the United States provides
37 reasonable proof of the effects on marine mammals of the
38 commercial fishing technology used to obtain the swordfish or
39 swordfish products, and the National Marine Fisheries Service
40 receives that proof and determines that it demonstrates that the

1 swordfish or swordfish products to be imported were not caught
2 with commercial fishing technology that results in the incidental
3 kill or incidental serious injury of marine mammals in excess of
4 United States standards; and be it further
5 *Resolved*, That the Chief Clerk of the Assembly transmit copies
6 of this resolution to the President of the United States, to the
7 Secretary of Commerce, to the Secretary of the Treasury, to the
8 National Marine Fisheries Service, to the Speaker of the House of
9 Representatives, and to each Senator and Representative from
10 California in the Congress of the United States.

O